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EQUALIA, LLC and HOVERBOARD
TECHNOLOGIES CORPORATION

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

EQUALIA, LLC, a California limited
liability company, and HOVERBOARD
TECHNOLOGIES CORPORATION, a
California corporation,

Plaintiffs,

v.

KUSHGO LLC dba HALO BOARD, a
California limited liability company;
HALO BOARD LLC, an Oregon limited
liability company; ARTHUR
ANDREASYAN, an individual; and
SHENZHEN WINDGOO INTELLIGENT
TECHNOLOGY CO. LTD., a foreign
company,

Defendants.

CASE NO. 2:16-cv-02851-RFB-CWH

**DECLARATION OF LAEL D. ANDARA IN
SUPPORT OF PLAINTIFFS'
EMERGENCY MOTION FOR ENTRY OF
A TEMPORARY RESTRAINING ORDER,
SEIZURE ORDER, AND PRELIMINARY
INJUNCTION**

I, Lael D. Andara, hereby declare as follows:

1. I am a partner in the law firm of Ropers Majeski Kohn & Bentley, counsel for
Equalia LLC and Hoverboard Technologies Corporation (collectively, "Equalia") in this action. I

1 am a member in good standing of the California State Bar, New York State Bar, the District of
 2 Columbia, and this Court. I have personal knowledge of the facts stated here and am familiar with
 3 the documents referred to below.

4 2. If called as a witness, I would competently testify to the following facts, all of
 5 which are within my own personal knowledge.

6 **EVIDENCE OF DIRECT COPYING**

7 3. On **April 28, 2016**, Kushgo filed a trademark application for the word mark
 8 HALO BOARD, serial number 87017860. A true and correct copy of this trademark application
 9 is attached hereto as **Exhibit A**. The application was subsequently assigned to Halo Board, which
 10 provided its address in Beaverton, Oregon. *See* Exhibit A, pg. 7. The specimen Kushgo submitted
 11 in connection with its trademark application shows a hoverboard (Fig. 1) identical to Equalia's
 12 Product (Fig. 2).

13 *See* Exhibit A, pg.

14 6. From my
 15 review of the
 16 www.hoverboard.

17 com website, I

18 recall that the

19 design was

20 publically

21 advertised from

22 approximately

23 September 2015

24 to present.

25 ///

26 ///

Kushgo Trademark Specimen - April 28, 2016



Fig. 1



SERVICE OF DEFENDANT

4. My office has gone to great lengths to serve each of the Defendants with the Complaint and Summons since filing, but each of the Defendants have proven difficult to locate and serve. I believe this because they have no true consumer facing locations in the United States. This is easily verified by a review of the website: <https://www.haloboard.com/>.

5. Defendant Halo Board professes to be an Oregon limited liability company, as declared to the USPTO through its trademark assignment filing. *See Exhibit A*, pg. 7. However, Halo Board does not appear to be registered with the Oregon Secretary of State. The address used for the trademark application assignment appears to be a police station. The website at www.haloboard.com includes an "About Us" page which extols the company's virtues, stating that it is "headquartered in Los Angeles" and has "a global workforce of over 500." Our further efforts to locate a valid address or agent for service of process for Halo Board have been unsuccessful.

6. Upon information and belief, Defendant Windgoo is a foreign company based in the People's Republic of China ("PRC"). Service of process on a corporation in the PRF must be made through the Hague Convention, which requires the intervention of both United States and Chinese state agencies. This process typically takes many months, if it is effective at all. Though Equalia is in process of attempting to serve Windgoo through the Hague Convention, service has not yet been effectuated.

7. My office has also attempted to effectuate service on Windgoo at the Upland, California address it provided in correspondence with Robert Bigler, but was unsuccessful. We subsequently located an alternate warehouse address in City of Industry, California, but when the server arrived he was informed that the company that operated the facility was not Defendant Shenzhen Windgoo Intelligent Technology Co. Ltd., but Shenzhen FSX International Intelligent Technology Co., Ltd. That company representative refused service.

8. All evidence we have seen in attempting to serve the defendants evidences that

1 neither Kushgo nor Halo Board maintains a physical presence in the United States.

2 9. I have read the email from Chinese manufacturer Windgoo to Robert Bigler that it
3 maintains a warehouse in Upland, California, which is less than fifty miles from Kushgo's listed
4 Studio City address. The hoverboards that Windgoo manufactures and sells through its warehouse
5 are identical to those marketed and sold by Kushgo and Halo Board. Given the information
6 revealed in attempting to serve these Defendants, the evidence indicates that these entities are one
7 and the same.

8 10. The address provided by Kushgo in papers it filed with its July 8, 2016 Complaint
9 in *Kushgo v. Segway*, the Arizona District Court case no. 2:16-cv-02249, lead to a post-office box
10 in Studio City, California.

11 11. Kushgo's filings in the Arizona District Court case also include an exhibit showing
12 that Defendant Arthur Andreasyan is the contact for Kushgo's domain registrations. A true and
13 correct copy of this exhibit is attached hereto as **Exhibit B**. However, Mr. Andreasyan lists
14 himself as the Chief Executive Office of Halo Board on his LinkedIn page. A true and correct
15 copy of Mr. Andreasyan's LinkedIn profile is attached hereto as **Exhibit C**. Our efforts to locate
16 and serve Mr. Andreasyan have not been successful.

17 12. On **December 15, 2016**, Equalia was finally able to serve Kushgo LLC through
18 the agent for service of process listed on the California Secretary of State, although not at the
19 address it had listed. Evidence of service is attached hereto as **Exhibit D**.

20 13. On **December 21, 2016**, I contact the attorney listed on the pleading in the case
21 referenced above. I was informed by counsel Maria Crimi Speth of Jaburg & Wilk that Michael
22 Dvoren represented Halo Board and I would need to contact him, but he was on vacation.

23 14. On **December 22, 2016**, I received an email from Steven Rinehart stating: "It
24 appears at this time my office will be handling the defense in Case No. 2:16-cv-2851 in Nevada. I
25 wanted to introduce myself and make sure you had my contact information. Are you seeking an
26 acceptance of service?" Mr. Rinehart also left a voicemail with local counsel in Nevada, but in
27

1 neither that voicemail nor his email did Mr. Reinhart identify which of the four defendants he
2 might represent. I responded promptly to Mr. Rinehart's email and requested that information, so
3 that I could determine if he represented a client who needed to be served.

4 15. Mr. Reinhart responded on **December 27, 2016**. My associate, Marie E. Sobieski,
5 spoke him by telephone the same day. She informed me that Mr. Reinhart would represent
6 Defendants Kushgo LLC, Halo Board LLC, and Arthur Andreasyan, and agreed to accept serve
7 on behalf of the unserved Defendants Halo Board LLC and Arthur Andreasyan. It is my further
8 understanding and belief that Ms. Sobieski informed Mr. Reinhart that we would move for a
9 temporary restraining order if his clients would not stipulate to withhold showing the infringing
10 products at the upcoming CES. Ms. Sobieski subsequently provided Mr. Andreasyan with a full
11 copy of the Complaint and Summons, as well as a waiver of service for his execution for Halo
12 Board LLC and Arthur Andreasyan, by email.

13 16. On **December 28, 2016**, Mr. Reinhart informed my office by email that his clients
14 would not agree to the requested stipulation, and I directed my office to file the present
15 emergency motion.

16 17. Upon the filing of this motion, my office will promptly email Mr. Rinehart a copy
17 of the papers filed herewith.

18 18. Upon the filing of this motion, my office will promptly email Defendant Windgoo
19 at its two known email addresses with a copy of the papers filled herewith.

20 I declare under penalty of perjury that the foregoing is true and correct. Executed on
21 December 28, 2016, in Seattle, Washington.

22
23 /s/ Lael D. Andara
24 LAEL D. ANDARA